IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9353 OF 2007

The Kapol Coop.Bank Ltd. .. Petitioner
Versus
Jayesh R. Gandhi & Ors. .. Respondents

Mr.Sangani for petitioner
Mr.P.S.Dani for respondents.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 18th December 2007

P.C.

. Mentioned not on board.

2. This petition is directed against an order passed by the lower appellate court dismissing the appeal of petitioner against the decree for possession in respect of suit premises.

3. By consent the petition is taken up for

admission and disposed off forthwith.

4. After the matter was argued for some time, petitioner's counsel Mr.Sangani makes a statement that he has been instructed by the petitioner to seek further time to vacate the premises. He submits that after the appellate decree was passed on 22nd August 2007, time was granted till 22nd December 2007 to vacate the suit premises, but the bank has been unable to locate alternate premises.

5. Mr.Nilesh Joshi, Branch Manager of petitioner's Vile Parle Branch is present in court and he instructs Mr.Sangani to seek six months' time. Mr.Dani in all fairness leaves the matter to Court.

6. The lower appellate court has granted four months' time but considering the peculiar facts of this case, petitioner is granted six

months time till 30th June 2008 to vacate the premises, subject to petitioner filing undertaking in this court in the following terms:-

(a) that the petitioner shall vacate the suit premises on or before 30th June 2008;

(b) that the petitioner shall not create any third party rights or part with possession or dispose of the suit premises nor shall the petitioner alienate or encumber the suit premises;

(c) that the petitioner shall pay licence fee in respect of suit premises and in addition shall pay Rs.45/- per sft. till the date they vacate the premises.

(d) The undertaking shall be filed within a period of fifteen days from today;

7. Petition is disposed of accordingly.

8. It is made clear that failure to file undertaking in the above terms shall result in the decree becoming executable forthwith. Needless to state that upon petitioners refusing to vacate the premises after the period stipulated i.e. 30th June 2008, in addition to proceedings for breach of the undertaking, it shall also be liable to be evicted with such force as is necessary. Mr.Sangani states that the petitioner would clear off all the arrears within four weeks from today.

9. All concerned to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J)